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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,670	06/08/2005	Wolfgang Kossl	566/43619	8601
23646 7590 11/12/2008 BARNES & THORNBURG LLP 750-17TH STREET NW SUITE 900 WASHINGTON, DC 20006-4675				
EXAMINER				
TANG, JEFF				
ART UNIT		PAPER NUMBER		
3634				
MAIL DATE		DELIVERY MODE		
11/12/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/522,670

**Applicant(s)**

KOSSL, WOLFGANG

**Examiner**

Jeff Tang

**Art Unit**

3634

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### **DETAILED ACTION**

This office action is in response to the amendment filed on 7/23/08. The 112 rejections have been withdrawn. Applicant is correct that preliminary-amended claims corrected these issues prior to examination but this was not in the electronic file due to PTO error. Examiner apologizes for the error.

### ***Claim Objections***

Claim 8 objected to because of the following informalities: there appears to be a minor cut-and-paste error—examiner is ignoring “including several”. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fink (US 6,189,265 B1 in view of Shiozaki et al. (US 6,550,596 B2).** Fink discloses a door actuator of rail vehicles comprising, a spindle drive (12) and a freewheel (23) wherein the spindle drive has a spindle that is connected with the free wheel permitting rotation of the spindle in a direction corresponding to a closing direction of a door and preventing the rotation of the spindle in a direction corresponding to an opening direction of the door, a part of the freewheel positioned away from the

spindle being rotatably mounted but being releasably fixed with respect to a release device by force of at least one contact pressure spring in cooperation with a releasable coupling (29) wherein the coupling is fixable in an open released positions and a lifting magnet configured to release the releasable coupling from a closed locked position (column 4, line 16), but does not disclose the lifting magnet paired with a closing magnet. However, Shiozaki et al. disclose a permanent closing magnet (10, Fig. 8) and a lifting magnet (11) paired to act as a closing magnet configured to lock the coupling in the closed locked position. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have include a pair of magnets as taught by Shiozaki et al. The motivation for doing so would be to provide a secure lock with the permanent magnet when not in use.

Regarding claim 2, Shiozaki et al. disclose a double acting magnet (Column 6, lines 25-43).

Regarding claims 3 and 5, Fink discloses a door actuator wherein the releasable coupling is configured to operate by a linkage (14) having a dead center position between a released position of the linkage and a locked position of the linkage (Column 5, lines 22-24); **[claim 5]** wherein the releasable coupling is movable between a releasable coupling released position and a releasable coupling locked position, and the releasable coupling includes a non-rotatable toothed disc (25, Column 6, lines 8-10), which is displaceable with respect to the release device axially against a force of the at least one contact pressure spring

3. **Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fink (US 6,189,265) and Shiozaki et al. (US 6,550,596 B2) in view of Foelix et al. (US 4,148,377).** Fink discloses the linkage (14) having a lever (24) which can be swiveled about an lever axis, wherein the first arm of the swiveling lever is connected to the lifting magnet, the lever moving the coupling between the released and locked positions. Fink does not disclose the other end being coupled to a roller. However, Foelix et al. disclose an actuator that has a locking mechanism with a roller (17). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified Fink's invention to have included a roller. The motivation for doing so would be to create an appropriate dead center position.

4. **Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fink (US 6,189,265) and Shiozaki et al. (US 6,550,596 B2) in view of Bittner et al. (US 2005/0173219).** Fink does not go into detail about the magnet, however, Bittner et al. disclose at least one permanent magnet (15) that has ferromagnetic material (6) and is positioned in relation to at least one permanent magnet that the attraction force of the at least one permanent magnet exceeds the force of the at least one contact pressure spring (21,22). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have included such magnets so that the force can sustain whatever position the rail door is in.

Regarding claim 7, the combination of Fink and Bittner et al. disclose the movable part (25) rests on the at least one permanent magnet when the releasable coupling is in the released position (Fig. 1, Bittner et al.).

Regarding claim 8, Shiozaki et al. disclose a plurality of permanent magnets positioned along a circle extending concentrically with respect to an axis of the spindle (10, Fig. 8).

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff Tang whose telephone number is (571) 270-5223. The examiner can normally be reached on Monday-Friday 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. T./  
Examiner, Art Unit 3634

/KATHERINE W MITCHELL/  
Supervisory Patent Examiner, Art Unit 3634